

**MATTHEW J. KLUGER**  
ATTORNEY AT LAW

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888 GRAND CONCOURSE, SUITE 1H  
BRONX, NEW YORK 10451  
(718) 293-4900 • FAX (718) 618-0140  
www.klugerlawfirm.com

September 29, 2021

By ECF

Honorable Lorna G. Schofield  
United States Courthouse  
40 Foley Square  
New York, New York 10007

**Re: United States v. Tony Tartt  
20 Cr. 339 (LGS)**

Dear Judge Schofield:

On June 8, 2021, Tony Tartt appeared before the Honorable Ona T. Wang and pled guilty without a plea agreement to the sole count of the above-referenced indictment charging him with possessing Winchester 9-millimeter Luger cartridge casings after having previously been convicted of a crime punishable by a term of imprisonment exceeding one year (See 18 U.S.C. §922(a)(1) and 2). Sentencing is scheduled for October 12, 2021, at 11:00 a.m. For the reasons stated below, the defense writes now seeking a 30-day adjournment of Mr. Tartt's sentencing.

As the Court may have deduced from the PSR, there is a factual dispute in this case concerning Mr. Tartt's intent at the time he fired the weapon in question. The defense submits that although Tartt used the firearm in a reckless, felonious manner, his intent was to scare the victims, not kill them. Thus, the defense submits that applying guideline §2K2.1, the applicable advisory sentencing range is 30 to 37 months. The Government and Probation on the other hand take the position that Mr. Tartt intended to kill the victims and therefore §2A2.1(a)(2), the guideline for the substantive offense of attempted murder, controls. Thus, Probation and the Government maintain that the proper guidelines range is 77 to 96 months.<sup>1</sup>

The parties are still in discussions regarding whether a *Fatico* hearing is necessary to resolve this dispute, and if so, what the parameters of such a hearing would be. At the same time, the defense is still attempting to gather documents and complete its sentencing submission. Accordingly, the defense respectfully requests that sentencing in this matter be adjourned for at least 30-days to resolve these open issues and effectively prepare for sentence.<sup>2</sup>

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<sup>1</sup> Probation recommends that the Court sentence Mr. Tartt to 77 months imprisonment.

<sup>2</sup> Defense counsel anticipates being on trial in U.S. v. Omatayo, 19 Cr. 291 (LAP) before the Honorable Loretta A. Preska the last two weeks of October.

I have discussed the above with A.U.S.A. Jacob Fiddelman, who consents to this request on behalf of the government.

Thank you.

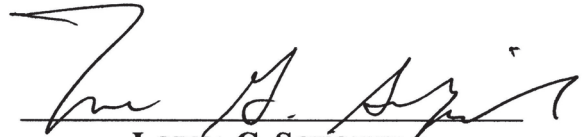
Respectfully,

/s/ Matthew J. Kluger  
Matthew J. Kluger, Esq.

cc: AUSA Jacob R. Fiddelman

Application Granted in part. The October 12, 2021 sentencing hearing and sentencing submission deadlines are adjourned *sine die*. On or before **October 14, 2021**, the parties shall file a joint letter informing the Court as to whether they believe a *Fatico* hearing is necessary. The Clerk of the Court is directed to terminate the letter motion at docket number 46.

Dated: September 30, 2021  
New York, New York

  
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**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**